

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

---

*In re: Robert A. Clarin  
and Donna J. Clarin,*

Chapter 7  
Bky. No. 04-40456

Debtor(s).

---

**NOTICE OF HEARING AND MOTION  
OBJECTING TO CLAIM OF CREDITOR  
(CLAIM NO. 13)**

---

TO: Entities specified in Local Rule 3007-1.

1. Terri A. Georgen-Running, trustee (the "Trustee") of the bankruptcy estate of the above-named Debtor(s) moves the Court for the relief requested below and gives notice of hearing.

2. A hearing will be held on this motion by the Honorable Nancy C. Dreher, Courtroom No. 7 West, 7<sup>th</sup> Floor - United States Courthouse, 300 S. Fourth Street, Minneapolis, Minnesota on **November 3, 2004 at 10:30 a.m.**, or as soon thereafter as counsel may be heard.

3. Any response to this motion must be filed and delivered not later than October 27, 2004, which is seven (7) days before the hearing date, including intermediate Saturdays, Sundays and legal holidays, or filed and served by mail not later than October 22, 2004, which is ten (10) days before the hearing date, including intermediate Saturdays, Sundays and legal holidays. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, FED. R. BANKR. P. 5005 and Local Rule 1070-1. This is a core proceeding. The petition commencing this Chapter 7 case was filed on February 2, 2004 and is now pending before this court.

5. This motion arises under 11 U.S.C. §§502 and 704, FED. R. BANKR. P. 3002 and 3007 and Local Rule 3007-1. This motion is filed under FED. R. BANKR. P. 9014 and 9014 and Local Rule 9013. The Trustee requests relief with respect to Claim No. 13 filed in the Debtor(s)' case.

6. HERCU LIFT ("Claimant") filed a proof of claim on May 28, 2004, asserting an unsecured non-priority claim in the amount of \$2,194.44 (the "Claim"). The Claim reflects that the basis for the obligation is for money loaned/services provided/goods sold to Aitkin County Pallet, Inc. (a corporation owned by the Debtor(s)). There is no documentation to establish that the Debtors personally guaranteed the Claim.

7. As a result, the trustee is unable to determine whether the Claim is properly filed in this case.

WHEREFORE, the Trustee respectfully requests that the Court disallow Claim No. 13 and such other relief as may be just and equitable.

Dated: September 29, 2004

**GEORGEN-RUNNING LAW FIRM**  
***A Professional Corporation***




By: /e/ Terri A. Georgen-Running  
Terri A. Georgen-Running (No. 238338)  
P.O. Box 16355  
St. Paul, MN 55116  
(651) 699-6980  
(651) 292-1234 *Facsimile*

ATTORNEYS FOR THE TRUSTEE

VERIFICATION. I, Terri A. Georgen-Running, the moving party named in the foregoing notice of hearing and motion declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: September 29, 2004

/s/ Terri A. Georgen-Running  
Terri A. Georgen-Running, Trustee

UNITED STATES BANKRUPTCY COURT DISTRICT OF MINNESOTA (MINNEAPOLIS)		PROOF OF CLAIM
Name of Debtor ROBERT A CLARIN DONNA J CLARIN	Case Number 04-40456	<div style="text-align: center; font-size: 2em; margin-bottom: 10px;">B</div> <div style="text-align: center;">  04-40456   5706251 </div> <div style="text-align: center; margin-top: 20px;">   <small>THIS SPACE IS FOR COURT USE ONLY</small> </div>
<b>NOTE:</b> This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. §503.		
Name of Creditor (The person or other entity to whom the debtor owes money or property): HERCU LIFT	<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.	
Name and Address where notices should be sent:  HERCU LIFT 1308 4TH ST NW GRAND RAPIDS MN 55744	Telephone Number:	
Account or other number by which creditor identifies debtor: <div style="text-align: center; font-size: 1.5em;"># 1879</div>	Check here if <input type="checkbox"/> replaces this claim <input type="checkbox"/> amends a previously filed claim, dated _____	
<b>1. Basis for Claim</b> <input checked="" type="checkbox"/> Goods sold <input checked="" type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input type="checkbox"/> Other _____ <div style="margin-left: 400px;"> <input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. §1114(a)  <input type="checkbox"/> Wages, salaries, and compensation (fill out below)              Last four digits of SS #: _____  <input type="checkbox"/> Unpaid compensation for services performed from _____ to _____ (date) (date) </div>		
<b>2. Date debt was incurred:</b> <div style="text-align: center; font-size: 1.2em;">January 2004</div>	<b>3. If court judgment, date obtained:</b>	
<b>4. Total Amount of Claim at Time Case Filed:</b> \$ <u>2,194.44</u> <div style="display: flex; justify-content: space-around; font-size: 0.8em;"> <span>(unsecured)</span> <span>(secured)</span> <span>(priority)</span> <span>(Total)</span> </div> <p>If all or part of your claim is secured or entitled to priority, also complete Item 5 or 7 below.</p> <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
<b>5. Secured Claim.</b> <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff).  Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____  Value of Collateral: \$ _____  Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____	<b>7. Unsecured Priority Claim.</b> <input checked="" type="checkbox"/> Check this box if you have an unsecured priority claim  Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4,925)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Up to \$ 2,225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6). <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____). <small>*Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>	
<b>8. Credits:</b> The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. <b>9. Supporting Documents:</b> Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. <b>10. Date-Stamped Copy:</b> To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.		Send claims to:  U.S. Bankruptcy Court 301 U.S. Courthouse 300 South Fourth Street Minneapolis, MN 55415
Date 5/27/04	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): <u>LISA G HINTER</u> <div style="text-align: center;">CREDIT MANAGER</div>	

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

For CHAPTER 7, 11 or 12 CASES filed on or after April 1, 2004

# HERC-U-LIFT

5655 Highway 12 West  
P.O. Box 69  
Maple Plain, MN 55359-0069  
Watts: 1-800-362-3500  
Tel: (763)479-2501  
FAX: (763)479-2296  
www.herc-u-lift.com

Sioux Falls  
4615 No. Cliff Avenue  
Sioux Falls, SD 57104  
(605)332-4755

Grand Rapids  
1308 4th Street N.W.  
Grand Rapids, MN 55744  
(218)326-0539

St. Cloud  
765 21st Ave. N.E.  
St. Cloud, MN 56304  
(320)251-9001

REMIT TO:  
5655 Highway 12 West  
P.O. Box 69  
Maple Plain, MN 55359-0069

PAGE 01

INVOICE NUMBER 04S8005330

DATE 01/23/04

\*\*\*\*\*  
1879 \* DUPLICATE INVOICE \*  
\*\*\*\*\*

1879

S  
O  
L  
D  
T  
O

AITKIN COUNTY PALLET \*AS  
16809 260TH AVE  
MCGRATH MN 56350

S  
H  
I  
P  
T  
O

AITKIN COUNTY PALLET \*AS  
16809 260TH AVE  
MCGRATH MN 56350

F.O.B. ☒

TERMS: --C.O.D.--

CUSTOMER ORDER NO.	SALESMAN	DATE SHIPPED	VIA	PPD.	COL.
BOB SC2099	TC	01/23/04	DELIVERY		X

QTY ORDERED	QTY SHIPPED	BACK ORDERED	PRODUCT CODE	DESCRIPTION	PRICE EACH	TOTAL
				Unit #:		
				Make: AC		
				Model: 706B		00
				Ser #:		
				Meter: 5130		
				12-23-03		
				HOURS 5130		
				CHECKED OVER FOR NEEDED REPAIRS		
				AND ADVISE SALESMAN		
1	1		0000 #104	SHOP LABOR	181.70	181.70
1	1		5300 8	SHOP SUPPLIES	7.27	7.27
				TOTAL MATERIAL		7.27
				TOTAL LABOR		181.70
				SALES TAX @ 6.500%		.47
				INVOICE TOTAL		189.44

Duplicate Invoice Printed on: 05/27/04

ORIGINAL

ank of  
ple Plain



Phone (763) 479-1931  
4980 Highway 12  
P.O. Box 279  
Maple Plain, MN 55359

Member FDIC

01/16/04  
C H A R G E B A C K C H E C K N O T I C E

DEAR CUSTOMER,

ON 01/16/04 THE FOLLOWING ITEMS WERE RETURNED  
UNPAID. THESE ITEMS HAD BEEN DEPOSITED IN YOUR

ACCOUNT. WE ARE DEBITING YOUR ACCOUNT #00001732 FOR \$1,975.00

-ITEMS-

1975.00

HERC-U-LIFT INC  
LES NIELSEN  
5655 HIGHWAY 12 W  
PO BOX 69  
MAPLE PLAIN MN 55359-0187

AITKIN COUNTY PALLET, INC.  
16809 - 260TH AVE.  
MC GRATH, MN 56350

RETURNED NOT PAID  
BECAUSE

1882

NSF

PRESENTED TWICE

DATE

Dec 31 - 03

75-1427919

PAY  
TO THE  
ORDER OF

*Hercu Lift*

*One thousand nine hundred seventy five and 00/100*

\$ 1975.00

DOLLARS



PEOPLES  
NATIONAL BANK  
of Mora  
Brainerd, Minnesota 56401

THIS CHECK  
CANNOT BE  
REDEPOSITED

FOR

⑈001882⑈

(091911202

4000920861⑈

⑈0000197500⑈

# HERC-U-LIFT INC.

## LIFT TRUCKS

5655 HIGHWAY 12 WEST, P.O. BOX 69  
MAPLEPLAIN, MINNESOTA 55359  
WATS 1-800-362-3500 FAX (763) 479-2296  
TEL. (763) 479-2501

SALES DELIVERY TICKET

32930

NEW-USED-RENTALS  
PARTS & SERVICE

SOLD TO Aitkin County Pallet SHIPPED TO # 1879

JAN 21 2004

DATE

CUST. P.O. NO.

DATE SHIPPED	TERMS	SALESMAN	SHIPPED VIA	F.O.B.	OUR ORDER NO.	
QUANTITY ORDERED	QUANTITY SHIPPED	DESCRIPTION			UNIT PRICE	UNIT AMOUNT
		NSF CK # 1882				1975.00
		Deposited 1-9-04				
		Returned 1-16-04				
		JAN 21 2004				
		12100001 DR			1975.00	
		11100001 CR			1975.00	
		NSF				
		FEE 12100001 DR			30.00	
		89039001 CR			30.00	

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

---

*In re: Robert A. Clarin  
and Donna J. Clarin,*

Chapter 7  
Bky. No. 04-40456

Debtor(s).

---

**UNSWORN DECLARATION FOR PROOF OF SERVICE**

---

I, Terri A. Georgen, declare that on the date indicated below, I served the following:

(1) Notice of Hearing and Motion Objecting to Claim of Creditor; (2) Unsworn Declaration for Proof of Service; and (3) Proposed Order

upon each of the entities named below, by mail (unless otherwise indicated below) by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid, and depositing same in the post office at St. Paul, Minnesota, addressed to each of them as follows:

UNITED STATES TRUSTEE  
1015 U.S. COURTHOUSE  
300 SOUTH FORTH STREET  
MINNEAPOLIS, MN 55415

HERCU LIFT  
1308 4<sup>TH</sup> ST NW  
GRAND RAPIDS, MN 55744

ROBERT A. CLARIN  
DONNA J. CLARIN  
31095 BAUGH ST. NW  
PRINCETON, MN 55371

ROBERT KALENDA, ESQ.  
919 W. ST. GERMAIN, STE 2000  
ST. CLOUD, MN 56301

And I declare under penalty of perjury that the foregoing is true and correct.

Date: September 29, 2004

*e/ Terri A. Georgen-Running*



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

---

*In re: Robert A. Clarin  
and Donna J. Clarin,*

Chapter 7  
Bky. No. 04-40456

Debtor(s).

---

**ORDER**

---

At Minneapolis, Minnesota, \_\_\_\_\_, 2004

The above-entitled matter came before the Court on the Objection to Claim of Creditor filed by the Trustee. Appearances, if any, were as noted upon the record. Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED:

1. Claim No. 13 is disallowed.

---

Judge Nancy C. Dreher  
UNITED STATES BANKRUPTCY JUDGE